TABLE OF CONTENTS

	Page
Opinion Below	1
Jurisdiction	2
Reformulation of Questions Presented	2
Restatement of the Case	2
Argument	6
A. The Judgment of the District Court in the Predecessor Breach of Contract Action Did Not Preclude the Judgment Entered by the District Court in this Action	6
B. The Decision Below is in Harmony with the Decisions of this Court and of the Federal Courts Governing Employment Relations	8
Conclusion	12
Appendix A—Agreement between the Supreme Lodge of B'nai B'rith and the B'nai B'rith Headquarters Staff Association	1a

AUTHORITIES CITED

Cases:

Joftes v. *B'nai B'rith*, unreported, D.C. D.C. No. 2561-68, aff'd without opinion U.S.App. D.C. 23067, *cert. den.* 400 U.S. 964 ..... 2, 7

Republic Steel Corporation v. *Maddox*, 379 U.S. 650 (1965) 9, 11

General Motors Corp. v. *Mendicki*, 367 Fed. 2d 66 (10th Cir. 1966) 9, 11

National Labor Relations Board v. *Granite State Joint Board*, —— U.S. ——, 34 L.Ed. 422 (1973) 10

Linn v. *United Plant Guard Workers*, 383 U.S. 53 (1966) 11

IN THE

Supreme Court of the United States

OCTOBER TERM, 1972

No. 72-908

SAUL E. JOFFES, *Petitioner*

v.

WILLIAM A. WEXLER and B'NAI B'RITH, *Respondents*

On Petition for a Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

---

BRIEF FOR RESPONDENTS IN OPPOSITION

OPINION BELOW

The Court of Appeals rendered no opinion. A copy of its judgment is attached to the Petition as Appendix B at p. 9a. The opinion of the United States District Court for the District of Columbia is set forth in Appendix A to the Petition at pp. 1a-8a and is reported in 324 F. Supp. 660.

JURISDICTION

The jurisdictional requisites are adequately set forth in the Petition.

REFORMULATION OF QUESTIONS PRESENTED

The questions as formulated by the Petitioner, in our view, are imprecise and are insufficient. Since they tend to obscure the issues which this Court is asked to review, we have restated the questions presented in the following form:

(1) Whether relevant notices or communications, which are prepared by an employer pursuant to procedures prescribed by a collective bargaining agreement and whose distribution is limited to those with an interest in the personnel action to which they relate, may be made the subject of an action in libel.

(2) Whether there were any findings of fact in the earlier breach-of-contract action (*Joftes* v. *B'nai B'rith,* unreported, D.C. D.C. 2561-68, aff'd without opinion U.S. App. D.C. 23067, *cert. den.* 400 U.S. 964, reproduced in Appendix C to the Petition at pp. 10a-12a), companion to this case, which precluded the judgment of the Court below.

RESTATEMENT OF THE CASE

The Petition has given an argumentative account of the facts of this case.[1] Accordingly, we include in our opposition a restatement of the facts.

---

[1] E.g., the Petitioner belonged to a "company" union organization (Pet., p. 3); the "Zionist oriented" administration of B'nai B'rith (Pet., p. 3); Petitioner, "obviously wearied by the three year ideological struggle with Wexler and Kaufman" (Pet., p. 4); Petitioner "having 'freely chosen to exercise his legal right to abandon the privileges of union membership'" (Pet., p. 4); vari-

This case concerns a libel action arising out of a sequence of events involving the dismissal of Petitioner under the terms of a collective bargaining agreement covering a unit of regular executive staff employees employed by Respondent B'nai B'rith in its national headquarters.

B'nai B'rith is a non-profit corporation engaged in activities of "international scope and political significance" (Pet., App. A. p. 2a), with national headquarters in Washington, D.C. Respondent Wexler was at all times pertinent to this action President of B'nai B'rith.

B'nai B'rith employed Petitioner as a regular executive employee attached to its headquarters staff. The terms and conditions of Petitioner's employment were governed by a collective bargaining agreement between B'nai B'rith and a union known as the B'nai B'rith Headquarters Staff Association. The Staff Association was recognized by this agreement "as the sole and exclusive agency for negotiating policies and conditions and other matters pertaining to personnel practices for regular executive employees . . . whether or not said employees are members of the Staff Association." (Resp., App. A, p. 1a). This collective bargaining agreement, among other things, explicitly circumscribed causes for discharge and prescribed procedures

---

ous personnel "met with their lawyer . . . to . . . plan litigation strategy." (Pet., p. 5); Wexler "in a complete about-face . . . and in a patent calculated ploy to deprive Joftes of the money" (Pet., p. 5); Wexler sent Joftes an "unsolicited" letter dated February 14 (Pet., p. 5); Wexler's "perfidy" (Pet., p. 6). The list is not all inclusive. There is no support for these and other of Petitioner's similar characterizations in the decision of the District Court, based upon all material facts as to which Court found no genuine issue (See Pet., App. A, pp 1a-4a).

governing discharges and the processing of grievances and arbitrations based thereon (Resp., App. A, pp. 5a, 11a, 12a, 13a).

Respondent twice in a twelve-month period took action under the terms of this agreement to discharge Petitioner.

The first such action took place on January 6, 1967. As required by the agreement, Respondent prepared and on that date delivered to the Petitioner, a notice of discharge specifying as the reason therefor a "lack of capacity and competence" to handle his duties as an executive employee of Respondent. Copies of the notice were distributed to persons with a "job-related interest in receiving it," (Pet., App. A, p. 8a).[2]

The union thereupon advised Respondent that Petitioner had invoked the grievance procedure under the agreement and asked for a bill of particulars. Respondent responded by preparing and delivering to the distributees of the notice a clarification or "supplemental notice," dated February 20, 1967, specifying additional grounds for discharge, using the exact words of the agreement as descriptive of each such ground. The parties thereafter negotiated a "seemingly acceptable compromise" involving rescission of the notices of discharge and re-assignment of Petitioner to a different position from that which he held at the time of the discharge action (Pet., App. A, p. 2a).

Some nine months later, Petitioner brought suit against the Executive Vice President of B'nai B'rith, who signed the foregoing notices of discharge, claiming

[2] E.g., Respondent's chief executive officer, the union chief executive officer, the Chairman of the International Council (Petitioner's immediate superior), the Comptroller (Pet., App. A, p. 3a).

that the words used as grounds for discharge in those communications constituted libel *per se.*

This event precipitated Petitioner's final discharge by Respondent which this time was communicated to him by the President of B'nai B'rith, Respondent Wexler, in a letter of January 5, 1968. Petitioner thereupon made a written demand upon the Comptroller of B'nai B'rith, with carbon copies to the President and to one Rabbi Rubin, officer of the union, for sums which he claimed were owing to him under the collective bargaining agreement in consequence of the discharge action. In response to this demand, Respondent Wexler dictated a letter, dated February 14, 1968, clarifying the basis for the discharge. The letter of clarification, or supplemental notice of discharge, followed precisely the same two-step sequence as has been described above in connection with the 1967 discharge and was distributed in the same manner to persons with a "job-related" interest. The February 14, 1968 letter, like the 1967 communications relating to discharge, was made the basis for this action in libel, again based upon the words used as grounds for discharge which, like the earlier letter of February 5, 1967, did not go beyond the words used in the agreement.

The District Court found that "each of the documents at issue were contemplated by the collective bargaining agreement" (Pet., App. A, p. 5a) and that the publication of each of the documents at issue was limited to those "within the scope of its justified distribution" (Pet., App. A. p. 8a).[3]

---

[3] "[W]ith the exception of Joftes' wife, who saw Wexler's letter, through no fault of defendants." (Pet., App. A, p. 8a).

ARGUMENT

A. The Judgment of the District Court in the Predecessor Breach of Contract Action Did Not Preclude the Judgment Entered by the District Court in this Action.

As we read the Petition, Petitioner in his first point represents that: (1) the decision of the District Court turned upon a "finding" that the February 14, 1968 malfeasance letter was a "notice of dismissal"; (2) the earlier breach of contract action turned on a finding that the January 5, 1968 "misconduct" letter was a "notice of dismissal"; (3) there is an inconsistency between these findings; and (4) the inconsistency should be resolved upon principles of *res judicata*.

The argument is based upon fallacious assumptions.

Neither decision turned on a finding that the communication of February 14 or the communication of January 5 constituted a "notice of dismissal" in itself or to the exclusion of other notices. Neither court had occasion to treat, or did in fact treat, these communications as conceptual forms with unique attributes. The District Court in this case simply concluded: (1) that there were no genuine issues with respect to any of the material facts, and (2) that there could be no doubt that "each of the documents at issue were contemplated by the collective bargaining agreement" (Pet., App. A, p. 5a).

It does not matter what these documents may be called. That they were contemplated by the contract as a part of the collective bargaining process, including the handling of grievances and arbitrations over discharge actions, is the critical point and that they were so contemplated "cannot be doubted." (Pet., App. A, p. 5a).

The predecessor breach of contract action (*Joftes* v. *B'nai B'rith, supra*) involved the issue of why and not of how Petitioner was discharged. The judgment in that action was limited to a determination of the reason for the discharge, measured in terms of the limiting discharge language of the collective bargaining agreement. The District Court there said quite clearly:

> "Thus, the only question in the case . . . is merely whether the filing of the law suit . . . was 'gross personal misconduct' as described in the letter of January 5, 1968, or whether it may be considered as a continuation of the 'malfeasance, misfeasance and non-feasance' which had earlier troubled the organization." (Pet., App. C, p. 12a)

The libel action, on the other hand, was not a discharge action. It did not turn on the issue of the "why" or reason for the discharge. Rather, it raised the issue whether the discharge communications of January 5 and February 14 were contemplated by the agreement and were appropriately issued thereunder. In passing upon this point, the District Court said:

> "Whether or not these claims of incompetence were just, and whether or not they were the true reasons for the discharge, each was directly related to Joftes' handling of his job and none went further than to state possible reasons for the employer's dissatisfaction with his performance.
>
> "Moreover, each letter was occasioned by a development relating to the dismissal. Rabbi Kaufman's January 6 letter was the official written notice of the 1967 discharge; his 'supplemental notice' of February 20, adding 'malfeasance, misfeasance, and nonfeasance' to the stated reasons for the dismissal, was written to clarify what appeared to be a breach of the agreement, since dismissals simply for 'incompetence' had to be pre-

ceded by a written evaluation and an opportunity for the employee to improve. . . . President Wexler's letter of February 14, 1968, was written in response to a demand by Joftes for severance pay, and the recitation of cause for the dismissal was made because the reasons for discharge controlled the employee's entitlement to severance pay under Article XVII of the agreement." (Pet., App. A, p. 6a).

B. The Decision Below is in Harmony with the Decisions of this Court and of the Federal Courts Governing Employment Relations.

As the District Court observed, there are a number of approaches to the decision in this case but each approach points in the direction of a single overriding principle which "finds ample support in the law and requires that summary judgment be entered for defendants as to each cause of action." (Pet., App. A, p. 5a). The overriding principle, well-defined by the District Court, is that an employer does not expose himself to the substantial risks and expenses of a libel action when he agrees in a collective bargaining contract with a union lawfully acting as the exclusive representative of his employees in the unit covered by the contract: (1) to surrender his otherwise unqualified right to discharge an employee without explanation; (2) to place limits upon causes for discharges; (3) to identify to his employees and to the union the contractual grounds and reasons for any given discharge; (4) to process grievances through various stages of a grievance procedure in which all aspects of personnel decisions involving discharge, including liability for payment of a range of benefits incident to discharge, may be challenged; and (5) to abide by the ultimate decision of an arbitrator if efforts to agree

upon a resolution of the grievance in the earlier stages of the grievance procedure should fail.

It is axiomatic that all members of a collective bargaining unit are bound by the terms of collective bargaining agreements between an employer and a labor organization lawfully acting as the exclusive representative of employees within the unit covered by the contract. Accordingly, each employee must be held to consent to actions required or contemplated by the agreement, including especially the preparation and publication of communications relating to discharge, without which there can be no grievance and arbitration procedure, so long as the distribution of such communications is confined to persons having "a legitimate job-related interest" in receiving intelligence of this nature (Pet., App. A, p. 8a).

The District Court recognized that of no less weight in arriving at its judgment was the policy in the federal labor law expressed in *Republic Steel Corp.* v. *Maddox,* 379 U.S. 650 (1965) that the grievance-arbitration procedures specified in collective bargaining agreements must be respected as the exclusive remedy for a cause of action remediable under the contract.

The third pillar relied upon by the District Court in support of its judgment was the principle of an unqualified privilege attaching to statements made "either by representatives of the management or by representatives of an employee at a conference or bargaining session having for its purpose the adjustment of a grievance of the employee or other peacable disposition of such grievance. . . ." (Pet., App. A, p. 7a, quoting *General Motors Corp.* v. *Mendicki,* 367 F.2d 66 (10th Cir. 1966), at p. 70).

Even if the consent rationale is singled out from the other supports relied upon by the District Court for its judgment, it is apparent that consent to abide by the terms of a collective bargaining agreement does not depend upon membership in the union. Rather, it derives from the fact of employment within the unit covered by the collective bargaining agreement negotiated by the exclusive bargaining agency acting on behalf of all employees, regardless of membership in the union.[4]

There is no conflict between this principle and the decision of this Court in *National Labor Relations Board* v. *Granite State Joint Board,* — U.S. —; 34 L.Ed. 2d 422 (1973). There the Court held that union violated Section 8(b)(1)(a) of the National Labor Relations Act, as amended, by imposing fines upon former union members for returning to work during a strike in violation of a membership resolution and by seeking judicial enforcement of the fine so levied. The decision in *Granite State* is limited to the binding effect of internal union rules of behavior upon members and ex-members. It does not even remotely touch the issue in this case involving the binding effect upon employer, union and employees alike of the terms of a collective bargaining contract, regardless of union membership.

Here, Petitioner and Respondent alike were bound by the terms of the agreement with respect to all com-

---

[4] In this case, the collective bargaining agreement explicitly sets forth the status of the Staff Association as the exclusive representative of all regular executive staff employees employed in the B'nai B'rith National Headquarters "whether or not said employees are members of the Staff Association." (Resp., App. A, p. 1a) This provision simply restates the axiomatic principle of majority rule established decades ago under the National Labor Relations Act.

munications and procedures involving all aspects of the discharge and related personnel actions and claims based upon the discharge.

Causes of action based upon discharges of this nature, regardless of the forum to which they may be addressed, necessarily involve ex-employees and possibly ex-union members.

Like Petitioner in this case, plaintiffs in both *Maddox* and *Mendicki* were discharged employees. All were bound in one way or another by the collective bargaining agreement upon the basis of which they asserted their claims.

Petitioner's reliance on *Linn* v. *United Plant Guard Workers,* 383 U.S. 53 (1966), is similarly misplaced. *Linn* was a libel action for statements published in the course of a union-organizing campaign, as distinguished from statements made as here in communications contemplated by a collective bargaining agreement as the essential device for enforcing terms of the contract. In *Linn,* this Court held that the remedial provisions under the National Labor Relations Act for harmful utterances made in the circumstances of that case offered no possibility of relief for the damage suffered and that, accordingly, there was an insubstantial basis upon which a policy of federal pre-emption by the National Labor Relations Act could be predicated. Here, the considerations involved the availability of effective contractual remedies as in *Maddox* (Pet. App. A. p. 7a); the destructive effect of a contrary result on "the carefully constructed system of procedures and remedies for employment disputes" arising under collective bargaining agreements as articulated by *Mendicki* (Pet., App. A, p. 8a); and,

no less significance, the binding effect of all contemplated contractual procedures and communications upon all for whom the exclusive bargaining representative acted.

CONCLUSION

For the foregoing reasons, the Petition should be denied.

Respectfully submitted,

EDWARD D. FRIEDMAN
818 Eighteenth Street, N.W.
Washington, D. C. 20006

BERNSTEIN, ALPER, SCHOENE & FRIEDMAN
818 Eighteenth Street, N.W.
Washington, D. C. 20006

APPENDIX A

AGREEMENT

between the SUPREME LODGE OF B'NAI B'RITH and the B'NAI B'RITH HEADQUARTERS STAFF ASSOCIATION

as revised December 15, 1964

Preamble

The SUPREME LODGE OF B'NAI B'RITH (hereinafter referred to as B'nai B'rith) and the B'NAI B'RITH HEADQUARTERS STAFF ASSOCIATION (hereinafter referred to as "Staff Association") agree on the following personnel practices:

ARTICLE I—*Recognition*

1. B'nai B'rith hereby recognizes the Staff Association as the sole and exclusive agency for negotiating policies and conditions, the correction of grievances and disputes, and other matters pertaining to personnel practices for regular executive employees

a. who operate out of national headquarters in Washington, D.C.;

b. who are not voting members of the Board of Governors or any national lay governing body of B'nai B'rith; and

c. whether or not said employees are members of the Staff Association; except that employees of B'nai B'rith Women and of the national office of B'nai B'rith Hillel Foundations, B'nai B'rith Youth Organization and B'nai B'rith Vocational Service are specifically excluded from provisions of this agreement.

ARTICLE II—*Use Of Facilities And Time By Employees*

1. The use of facilities in the B'nai B'rith Building by the Staff Association is authorized, subject to administrative regulations.

2. During working hours no employee shall engage in Staff Association activities on the premises of B'nai B'rith except for the purpose of conference with the employer agency, nor shall an employee engage in any activity other than the business of B'nai B'rith.

ARTICLE III—*Discrimination*

1. An employee may join or refrain from joining the Staff Association, and B'nai B'rith shall give no preferential treatment to, nor discriminate against any employee because of membership or non-membership in the Staff Association.

2. B'nai B'rith shall not encourage or discourage membership or participation in the Staff Association of any employee who is eligible to join.

3. There shall be no discrimination against a regular employee because of race, sex or marital status.

4. B'nai B'rith shall make no individual or private agreement with a regular employee in conflict with or contrary to the terms of the personnel matters covered in this Agreement, nor shall B'nai B'rith enter into any agreement in conflict with the intent of this Agreement to esablish for regular employees uniform personnel practices and conditions of employment for the matters defined in this Agreement.

ARTICLE IV—*Definitions And Conditions Of Employment*

1. B'nai B'rith has the sole right to recruit, employ, promote, transfer and dismiss any of its employees, subject to the provisions of this Agreement.

2. A *new employee,* within ten days after hiring, shall receive from B'nai B'rith a copy of this Agreement and a memorandum setting forth his duties, initial salary and other matters pertaining to his employment.

3. A *temporary employee* is one who is engaged for a period not to exceed one year. In the event a temporary employee is retained permanently in the same assignment, or one of equivalent duties, he shall be deemed to have completed his probationary period and shall be deemed a regular employee.

4. A *part-time employee* is one who is hired for less than thirty hours per week in accordance with agreed terms of employment.

5. A *regular employee* is one who is hired for thirty hours or more a week for work of a continuing nature and who has satisfactorily completed the probationary period as defined in paragraph 6 of this Article.

6. The probationary period for a regular employee shall be six months, but may be extended by mutual agreement in writing for not more than six additional months. B'nai B'rith shall inform an accepted applicant, before employment, of the length and nature of his probationary period.

a. Written notice of evaluation of performance shall be given to the employee by his immediate supervisor at the end of three months, and at the conclusion of the probationary period.

b. B'nai B'rith shall give notice in writing to a probationary employee whose probationary period is not to be completed. The notice period shall be the equivalent of one day for every two weeks of continuous employment, or fraction thereof, of the probationary employee, but not to exceed one month.

c. An employee who is retained following completion of the probationary period shall be deemed a regular employee and shall be entitled to all rights thereof, retroactive to his first day of full-time employment.

d. When a regular employee is transferred to a new assignment, arrangements shall be made for his

return to his previous assignment or equivalent thereof, within six months, if the results of the new assignment are not mutually satisfactory.

ARTICLE VI—*Seniority*

1. Seniority for a regular employee shall be computed on continuous length of service beginning from the first day of full-time employment with any national, district or regional component of B'nai B'rith. Service as an employee of an individual lodge or chapter shall be excluded.

2. Vacation as defined in Article XV and Leaves as defined in Article XIV shall be included in computing length of service.

3. Seniority is interrupted but not lost during other leaves of absence without pay.

ARTICLE VI—*Separation*

1. A regular employee released from employment because of reorganization or retrenchment shall be given two months separation notice in writing in addition to severance pay as defined in Article XVII.

2. Seniority shall be recognized as a major determining factor for continuing the employment of a regular employee whose job has been eliminated or reduced by reorganization or a reduction in force.

3. In the event it is impractical to reassign a regular employee otherwise subject to separation, B'nai B'rith will make every reasonable effort to help the separated employee find suitable employment elsewhere.

ARTICLE VII—*Dismissal*

1. A regular employee may be dismissed from employment only on the grounds of malfeasance, misfeasance, nonfeasance (including incompetence of a continuing nature), or gross personal misconduct not connected with his offi-

cial duties but of such a nature as to make his continuing employment a detriment to the purposes of B'nai B'rith.

2. a. A regular employee shall be granted one month notice of dismissal, except in cases of malfeasance.

b. In dismissals for incompetence of a continuing nature, after two years service, a regular employee shall receive two months' notice.

c. A dismissal for incompetence of a continuing nature shall be based on cumulative evidence and evaluation, including an opportunity for the employee to improve his performance prior to notice of dismissal.

d. In all cases, the notice of dismissal or evaluation shall be in writing.

3. Within the notice period, B'nai B'rith may, at its discretion, terminate the actual duties of the employee.

ARTICLE VIII—*Resignation*

1. A regular employee shall give a minimum of two months' notice of resignation.

ARTICLE IX—*Relocation*

1. A regular employee who is to be relocated, subject to mutual agreement between B'nai B'rith and himself to establish, where necessary, maximum allowances, shall be reimbursed.

a. Actual and necessary cost of transporting his family and household goods to his new location.

b. Reasonable and necessary expenses incurred in securing suitable housing.

c. Actual and necessary living expenses incurred when he is required to report to his new assignment before it is practical to complete his household move, but in no case shall these expenses exceed the travel and per diem allowance.

ARTICLE X—*Promotion*

1. B'nai B'rith shall adhere to the principle of promotion-from-within and shall give preference in filling a staff vacancy to a regular employee if his qualifications are equal to those of an outside applicant.

2. B'nai B'rith shall publicly advise all regular employees of staff vacancies, describing the nature of the duties and professional requirements, and shall invite and act on applications from employees covered by this Agreement prior to making a decision.

3. Seniority shall be a major factor in promotions.

ARTICLE XI—*Increments*

1. B'nai B'rith shall consider annually each regular employee for a salary increment.

ARTICLE XII—*Welfare Benefits*

1. *Medical and Hospitalization Plan.* A regular employee of B'nai B'rith shall, at his individual option, be covered by group major medical insurance. B'nai B'rith shall pay two-thirds and the employee one-third of the cost of the individual premium.

a. Any change in the existing medical and hospitalization plan shall be by mutual agreement of the Staff Association and B'nai B'rith.

2. *Life Insurance and Retirement Plan.* B'nai B'rith shall maintain a life insurance and retirement plan for regular employees.

a. Participation by the employee shall be at his individual option but in accord with established provisions for the exercise of this option.

b. Terms and conditions shall be periodically reviewed by B'nai B'rith in consultation with representatives of the Staff Association for the purpose of improv-

ing the retirement pension and other benefits of the plan.

ARTICLE XIII—*Holidays*

1. The following national and religious holidays shall be granted with pay to regular employees: New Year's Day; Memorial Day; Independence Day; Labor Day; Election Day (maximum of one-half day for those actually voting); Thanksgiving Day; Christmas Day; Rosh Hashona (two days); Yom Kippur; Succoth (first two and last two days); Passover (first two days and last two days); Shevuoth (two days).

a. For regular employees not stationed in Washington, D.C., legal holidays may be observed in accordance with local practice, but religious holidays shall be observed as specified in paragraphs 1 and 2 of this Article.

2. For Rosh Hashona, Yom Kippur and Passover time off will be given at 3:30 p.m. on the afternoon preceding the first day.

a. Suitable provision shall be made for employees who observe religious holidays and the Sabbath in the Orthodox tradition.

ARTICLE XIV—*Leaves*

1. *Sick leave* with pay shall be given for absence of a regular employee due to illness, injury or pregnancy; or for medical or dental treatment; or in case of quarantine. Sick leave shall accrue at the rate of one-and-one-half working days per month and is cumulative to a maximum of sixty days. If sick leave beyond the amount accumulated is required, it may be granted by the proper authority designated by B'nai B'rith.

a. When requested, a doctor's certificate shall be furnished by an employee absent on sick leave for more than two consecutive working days.

2. *Maternity leave* without pay for a period not to exceed one year shall be granted to a regular employee with two or more years of service. Such leave shall be requested at least sixty days before the last day of active duty.

3. *Emergency leave* with pay not to exceed one week may be granted to a regular employee for personal emergencies of death or serious illness in the immediate family of the employee.

4. A regular employee called for *jury duty* shall receive the difference between jury pay and his regular pay, except on days when the jury is not in session at which time the employee shall report for work.

5. A regular employee called for *military reserve training* shall receive the difference between military pay and regular pay (if the former is the lesser) for a period not to exceed two weeks in any calendar year.

6. *Military leave* without pay shall be granted to a regular employee for extended active service with the Armed Forces. He shall be entitled to return to his employment without loss of prior rights or privileges, provided he applies for reinstatement within ninety days of his completion of satisfactory service.

7. A regular employee shall have the right to apply for *leave with pay for academic study and other purposes* when such leave will, in the opinion of B'nai B'rith, be of sufficient benefit to B'nai B'rith.

ARTICLE XV—*Vacation*

1. Vacation allowance shall be granted a regular employee at the rate of one-and-two-thirds working days per month and shall be computed on a calendar year basis.

2. An employee shall be entitled to vacation accrual after three months service, retroactively, and from then on.

3. Vacation allowance which will accrue to a regular employee during a calendar year may be credited to him at

the beginning of the year. If an employee resigns from B'nai B'rith employment and is indebted for vacation taken but unearned, appropriate refund or salary deduction shall be made.

4. Vacation allowances not used may accumulate to a maximum of twenty working days, which shall be additionally available at the beginning of the calendar year; however

a. in the event the regular employee has accumulated over a period of two years or longer, more than twenty working days of vacation allowance at the beginning of a new calendar year, and his employment is terminated during that year, he shall be entitled to the accumulation in excess of twenty working days, but not to exceed forty working days.

5. Unused vacation allowance shall be taken at the time of termination of employment; but no vacation allowance shall be granted in dismissals for dishonesty, or in resignations without the prescribed notice period.

6. Vacation shall normally be taken in summer, but in any event at a time mutually agreeable to the employee and B'nai B'rith.

ARTICLE XVI—*Travel Allowance*

1. A regular employee engaged in authorized travel shall be reimbursed

a. for actual cost of rail or air fare (not to exceed air coach when available, or pullman or lower berth sleeper) or such other means of conveyance as may be applicable and appropriate.

b. for actual cost of taxi or limousine service to and from depots and airports.

c. at the rate of ten cents permile plus tolls and parking, when a privately-owned automobile is utilized for convenience of B'nai B'rith.

d. at actual cost when a publicly-rented automobile is utilized for the convenience of B'nai B'rith.

e. for the equivalent of air coach (or first-class rail fare when air flight would not be applicable) when a privately-owned automobile is utilized for the convenience of the employee.

f. for actual cost of reasonable hotel accommodations.

g. reasonable laundry valet charges for travel of five consecutive days or longer.

h. a per diem allowance of ten dollars.

1. The per diem allowance is to include 50 cents for necessary local phone calls and 75 cents for necessary local transportation (bus, subway, taxi, etc). Necessary expenditures in excess of these allowances and other miscellaneous expenditures of a regular employee in travel status, authorized and necessary and not otherwise covered by the provisions herein, shall be reimbursed at actual cost.

2. When meals are provided in kind by B'nai B'rith, or any of its components, the per diem shall be reduced as follows:

$1.50 for breakfast
$2.00 for luncheon
$4.00 for dinner

3. For purposes of computing fractional time periods, the day shall be deemed to be in four parts:

a. from 6 a.m. to 12 noon;

b. from 12 noon to 6 p.m.;

c. from 6 p.m. to 12 midnight;

d. from 12 midnight to 6 a.m.

and the fractional per diem shall be computed at $2.50 for each part of the day.

4. A regular employee not in a travel status but incurring petty cash expenses necessary to the professional performance of his assignment shall be reimbursed actual cost.

5. A regular employee engaged in foreign travel shall be reimbursed the regular per diem allowance except

a. he shall be reimbursed a special allowance not to exceed actual cost when the circumstances impose traveling costs in excess of the regular per diem.

b. Canada shall be deemed domestic travel.

6. Employees shall use proper prudence and judgment in incurring travel and petty cash expenses.

7. An employee shall have the right to draw advance funds for a specific travel assignment in a sum not to exceed the estimated cost.

ARTICLE XVII—*Severance Pay*

1. Severance pay shall be computed at the rate of three weeks' salary for each year's service up to a maximum of one year's salary and shall be paid a regular employee whose employment is terminated by

a. separation as defined in Article VI

b. disabling illness of a permanent nature, providing the disabled employee has one or more years of seniority.

c. dismissal for incompetence of a continuing nature or for gross personal misconduct, as defined in Article VII.

2. Severance pay for dismissal on the grounds of malfeasance, misfeasance, or nonfeasance other than incompetence of a continuing nature is not authorized, except that a B'nai B'rith committee composed of the President, Executive Vice President and Chairman of the Personnel Practices Committee may, at its discretion, consider terms of

dismissal for malfeasance and misfeasance in individual cases.

3. The computation of severance pay shall include prorated allowances for fractional periods of a year.

4. Severance pay shall be exclusive of unused vacation allowance or notice periods of separation or dismissal; however, unused vacation allowance shall not be considered in computing length of service for severance pay.

ARTICLE XVIII—*Grievance Procedure*

1. In the event of a grievance the party or parties involved shall have the right to be represented personally, or by the Staff Association, or by counsel.

2. The procedure for handling a grievance shall be as follows:

a. The aggrieved party (or parties) shall present his complaint to his immediate supervisor. In the event the matter is not satisfactorily settled within two weeks, then,

b. the aggrieved party (or parties) shall have the right to take up the complaint with the next higher authority, continuing his procedure up to the office of the Executive Vice President of B'nai B'rith. In the event the complaint is still not satisfactorily settled within a period of two weeks,

c. the aggrieved party (or parties) shall have the right to take up the complaint with the President of the Order, or such committee as the President may designate. In the event the complaint is not satisfactorily settled within a period of six weeks,

d. the aggrieved party (or parties) then shall have the right to submit the matter to arbitration as defined in paragraph 3 of this Article.

3. In the event a complaint or dispute is unresolved prior to arbitration the procedure shall be as follows:

a. B'nai B'rith and the Staff Association shall select an impartial arbitrator mutually agreed upon or a three-member arbitration board which shall include one member appointed by B'nai B'rith, one member appointed by the Staff Association and a third member selected by the two who shall serve as chairman.

b. The decision of the arbitrator or the majority decision of the arbitration board shall be binding upon all concerned.

4. A discharged employee who contests his dismissal as a grievance must do so within one week of receipt of written notice of dismissal. Until final adjudication of his grievance he shall be deemed a regular employee.

a. In extraordinary cases B'nai B'rith may suspend the employee, but if decision is ultimately made in the employee's favor, all compensation, leave and other privileges shall awarded retroactively to the date of his suspension.

ARTICLE XIX—*Expiration And Renewal Of Agreement*

1. This revised Agreement shall come into full force and effect as from January 1, 1965, shall remain in force for a period of one year, and shall be renewed automatically each year thereafter, unless either party gives written notice of termination or renegotiation to the other party at least ninety days prior to the expiration date.